

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Stephen J. Brown
Serial No.: 10/605,226
Title: MESSAGING TO REMOTE PATIENTS IN A NETWORKED
HEALTH-MONITORING SYSTEM
Filed: September 16, 2003
Attorney Docket No.: 7553.00110 / 03-0910
Examiner: Fuelling, M.
Art Unit: 3626
In Response To: Office Action mailed September 21, 2009

RESPONSE TO ELECTION/RESTRICTION REQUIREMENT
UNDER 35 U.S.C. §121

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

R E M A R K S

Applicant's representative provisionally elects with traverse claims 1-87, Group I. Applicant's representative respectfully requests that the Examiner reconsider and withdraw the restriction requirement.

Group I, claims 1-87, Group II, claims 88-102, Group III, claims 103-234 and Group IV, claims 135-145, are not separate groups. An application may be properly required to be restricted on one or more patentably distinct inventions only if (a) the

inventions are either independent or distinct as claimed **and** (b) there is a **serious** burden on the Examiner (see MPEP §803, emphasis added by Applicant's representative).

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent and distinct inventions (MPEP §803, under the heading Restriction-When Proper). The Examiner does not appear to have met the burden of showing a *prima facie* case why there would be a serious burden to search and examine the entire application (MPEP §803).

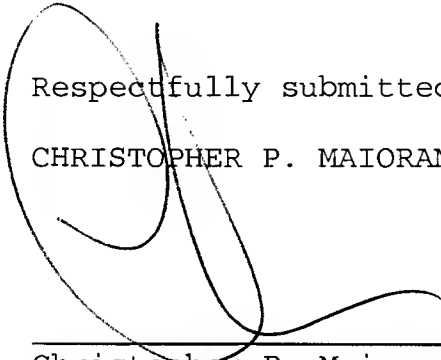
Furthermore, Examiners must provide reasons and/or examples to support conclusions (see MPEP §803, under the heading GUIDELINES). The Examiner has not presented objective evidence or appropriate explanation for the conclusory statement that Group I has separate utility from Groups II, III or IV (see Office Action). Therefore, the Office Action does not appear to establish a *prima facie* showing that there would be a **serious** burden on the Examiner to search and examine the entire application (MPEP §803). As such, the requirement for restriction does not appear to be proper and should be withdrawn (MPEP §803).

Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicant's representative should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge Deposit Account No. 50-0541.

Respectfully submitted,
CHRISTOPHER P. MAIORANA, P.C.



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Dated: October 15, 2009

c/o Sandeep Jaggi
Health Hero Network

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